

Appl. No. : 10/810,660
Filed : March 29, 2004

REMARKS

Claims 1 and 27 have been amended to recite that the sacrificial layer is selected from the group consisting of dielectric material, metal material, and silicon material. Support for this amendment may be found in Claims 2 and 28 as originally filed. Claims 2 and 28 have been amended to recite that the sacrificial layer is selected from metal material and silicon material. New Claims 74 and 75 have been added reciting that the sacrificial layer is amorphous silicon. Support for these amendments may be found in the specification, for example, at page 9, line 16. No new matter has been introduced.

Claims 4, 7, 10, 13, and 19 are allowed. Claims 17 and 18 were previously allowed, but now stand rejected. Claims 1-37 and 74-75 are pending. The Applicants have carefully considered all of the Examiner's rejections but respectfully submit that the claims are allowable for at least the following reasons.

Rejections under § 102

The Examiner rejected Claims 1-3, 5-6, 11-12, 14-15, 17, 18, 24-29, 31-32, and 36-37 under 35 U.S.C. § 102(b) as being anticipated by Miles (U.S. Patent No. 5,835,255). In the Office Action, the Examiner argued that the limitation in Claims 1 and 27 of the conductor layer being susceptible to etching by an etchant suitable to remove the sacrificial layer does not methodically distinguish the invention and therefore does not have patentable weight. The Examiner clarified in the interview that this phrase is not being given patentable weight due to its functional nature.

The Applicants have added specific material limitations to Claims 1 and 27. Specifically, Claims 1 and 27 now recite that the sacrificial layer, which is positively recited, is selected from the group consisting of dielectric material, metal material, and silicon material. Etchants used to remove these materials may also etch the conductor in the second electrode, and this material property is also positively recited ("wherein the conductor layer is susceptible to etching by an etchant suitable to remove the sacrificial layer"). To address this problem, the first material layer has the recited material property that it "is adapted to protect the second electrode from etching when the sacrificial layer is removed using the etchant is functionally significant." Thus, the specification of sacrificial layer material in conjunction with the functional limitations serve to structurally limit the material properties of the layers and are due patentable weight.

Appl. No. : 10/810,660
Filed : March 29, 2004

In contrast, Miles only discloses water soluble materials or polymeric materials for the sacrificial layer. Thus, Miles was not concerned with etching of the electrode during sacrificial layer removal, and thus neither teaches nor suggests the material properties recited in the claims. Accordingly, the Applicants respectfully submit that Claims 1 and 27 and their dependent claims are not anticipated by Miles.

The Examiner previously had allowed Claims 17 and 18 but now maintains that those claims stand rejected. *See e.g.*, June 6, 2006 Office Action, page 3. Claims 17 and 18 recite material layers of macromolecule materials such as paraffin. The Examiner has not identified any prior art disclosing this limitation. Accordingly, the Applicants respectfully submit that Claims 17 and 18 are allowable, as originally indicated by the Examiner.

Rejections under § 103

The Examiner rejected 8, 9, 20-23, 30, 34, and 35 under 35 U.S.C. § 103(a) a being obvious over Miles in view of Gotoh et al. (U.S. Patent No. 5,824,608). As discussed above, Miles does not teach or suggest all of the limitations of independent Claims 1 and 27. Gotoh et al. does not teach or suggest the limitations that are missing from Miles and thus does not supply the deficiencies noted above. Accordingly, the Applicants respectfully submit that Claims 8, 9, 20-23, 30, 34, and 35, which depend from Claim 1 or 27, are not obvious over Miles in view of Gotoh et al.

Please charge any fees, including any fees for extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 1-17-07

By: Ryan Melnick
Ryan E. Melnick
Registration No. 58,621
Attorney of Record
Customer No. 59,747
(619) 235-8550